# UNITED STATES PATENT AND TRADEMARK OFFICE

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/940,767 | 08/27/2001 | Arnold M. Lund | 020366-074100US | 6793 |

| | | | EXAMINER |
|---|---|---|---|
| 20350 | 7590 | 09/17/2004 | YANG, CLARA I |

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| ART UNIT | PAPER NUMBER |
|---|---|
| 2635 | |

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| **Advisory Action** | **Application No.** 09/940,767 | **Applicant(s)** LUND, ARNOLD M. |
|---|---|---|
| | **Examiner** Clara Yang | **Art Unit** 2635 |

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED 23 August 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
        NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: *4 and 12*.

    Claim(s) rejected: *1-7,9-13,15,17-19 and 21*.

    Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)( PTO-1449) Paper No(s). _____

10. ☐ Other: _____

BRIAN ZIMMERMAN
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: On pages 6 and 7, the applicant argues that Kudoh (U.S. Patent No. 5,726,642) fails to teach the step of "activating a message-waiting indicator associated with the pager after there is no response for the predetermined time period." Assuming that unread messages are absent in message memory 8 of a selective call receiver (SCR), Kudoh's method comprises the steps of (a) the SCR's radio protion 2 receiving a message (see Col. 3, lines 16 - 29); (b) the SCR's message control portion 6 outputting a signal for generating a normal alarm (see Col. 3, lines 42 - 46); (c) SCR's switch detecting portion 7 monitoring an operation of switch 11 (see Col. 3, lines 66 - 67 and Col. 4, lines 1 - 8); (c) switch detecting portion 7 generating a time-up signal after there is no operation of switch 11 (i.e., "no response") for a predetermined time period (see Col. 4, lines 8 - 13); (d) message control portion 6 indicating that the message is unread and storing the message in message memory 8 (see Col. 4, lines 1 - 5); and (e) message control portion 6 outputting a non-read alarm when the non-read message is detected after the receipt of a new message (see Col. 3, lines 36 - 46). Claim 1 only requires that the unread message alarm be activated after a message has been determined to be unread and omits calling for the activation of the message-waiting indicator prior to the receipt of a new message. Consequently, Kudoh does teach the activation of a message-waiting indicator after there is no response from a user for a predetermine time period. The applicant also argues that Kudoh's message is unable to "be retrieved using anything other than the radio receiver." However, claim 1 recites "storing the message in a communication mode agnostic format" and fails to require that the message be stored in a format that enables anything to retrieve the message. Per Kudoh, radio portion 2 demodulates a received radio signal into a digital signal/message (see Col. 3, lines 16 - 26). When a radio signal demodulated, the communication protocol/mode (such as the modulation technique and/or encryption scheme) is removed, resulting in a digital message that is noncommittal (i.e., "agnostic") to communication modes.